

PLANNING COMMISSION MINUTES OF JULY 11, 2005

2004-0734 – Starkweather Bondy Architecture, LLP [Applicant] **South Peninsula Hebrew Day School** [Owner]: Application for a Use Permit on a 4.3-acre site to accommodate an expanded library and computer lab, an addition to the existing administrative building, and to construct a new sanctuary. The property is located at **1030 Astoria Drive** (near S Bernardo Ave) in a P-F (Public Facility) Zoning District. (APN: 320-09-064 (Mitigated Negative Declaration) JM (moved from April 25, 2005)

Jamie McLeod, Associate Planner, presented the staff report. This site is a private school and community center, adjacent to a municipal park, both which were previously owned by the Cupertino Unified School District. The South Peninsula Hebrew Day School (SPHDS) has operated as a school at this site since 1981. The school originally leased the site, but bought it the same year from the School District with the park being turned over to the City of Sunnyvale. At that time, no Use Permit was required. The property is currently zoned P-F for Public Facilities and schools are acceptable in this zoning district. The current Code requires a Use Permit for this type of use, but since the use was previously established prior to a Code change in 1986, no Use Permit was required. The school operating at this site is considered to be a legal, non-conforming use. The school could continue to operate without a Permit. The school is now proposing to remodel and add a building. With this proposed change, the school is now required to obtain a Use Permit which would bring the school to a conforming status. This site is used as a religion-based school and also serves as a center for religion-based activities. The applicant is asking to add a second-story to the existing administration building and for the construction of a separate building to be used as a synagogue. Staff is recommending that any Use Permit issued be conditioned to not allow expansion of uses or hours of operation. In 1996 a Use Permit was applied for, approved, but never exercised. The 1996 staff report capped the student enrollment to 354. Staff is recommending the same for this proposed Use Permit. The religious services have been offered on site for several years. The two primary issues are traffic congestion and parking issues, and the neighbors' concerns about multiple uses.

Some of the traffic and on-street parking uses are due in part to neighboring uses, specifically the municipal park and a nearby convalescent home that overflow to on-street parking and also into the parking lot of the SPHDS. SPHDS has always allowed the public to use this parking lot free of charge. SPHDS has modified their plans to include the design requirements for parking for weekday use and school requirements. There are some supporting uses that will exceed these requirements so one possibility is to include in this report a Condition of Approval (COA) that would require the applicant to include a Transportation Management Plan.

The second significant issue is the neighbors' concerns with the multiple uses and noise. The Use Permit process allows formalization of what are allowable uses such as hours of operation, and number of participants, etc. One of the challenges of this request is that there is no original Use Permit or any documentation to refer to that would have shown what uses there are and when they may have started. Staff is recommending approval of the project with the attached conditions, capping the enrollment to 354. If this Permit is not approved, the uses would be able to continue as they currently are. A Planning Commissioner asked about the portable bathroom that looks like it is on the site. Ms. McLeod said it was established by the City for the users of the park and is not part of the applicant's site or services.

Comm. Babcock asked staff about getting a stripe painted down the middle of Astoria between Wright Ave. and Bernardo Ave. She said drivers tend to make a long, sloping left turn into the driveway which blocks both lanes of traffic. She asked if it could be a COA. Ms. Caruso said that once Public Works determines that it is an appropriate and safe improvement, staff could make a COA that requires that applicant to pay for the improvement. This COA can be worded to require input from Public Works prior to requiring the striping.

Comm. Moylan asked for clarification regarding the two uses on the site and how the staff recommendation would manage those. The purpose of the staff recommendation is to lock in the existing intensity so it can not expand. He said it looks like the intensity of the school use and the intensity of the synagogue use caps are unclear. Ms. McLeod said the current number of students is approximately 260 and staff is looking at capping it at 354 which was a peak attendance used back in 1996. The other uses and intensity for the site have been a challenge to capture since there has never been a Use Permit or any documentation to refer back to. If the Use Permit is approved there will now be a bar to measure from. The information in the report is based on a conversation with the applicant. Comm. Moylan asked if there is a proposed cap for the Synagogue use. Ms. McLeod recommends capping the number of attendees as listed on pages 9 and 10 of the staff report. The applicant agreed that the 354 was a good number. Comm. Moylan asked if it would be at the Planning Commission's discretion to come up with a different cap from what is in the report, or could it possibly be considered dealing with the applicant in bad faith. Joan Borger, Senior Assistant City Attorney, said it would be at the Planning Commission's discretion.

Comm. Simons referenced page 5 of the staff report, regarding the benefit for having this permit for the public facility and regarding the COAs helping to define the uses better than what we currently have. He said the different kinds of uses and conditions were a bit unclear as this is a more complicated project than the average. He asked and recommend that if staff worded the COAs more specifically based on suggestions of the Commission, that the COAs would be more clear. A couple specific areas he would like to see addressed are

commercial uses on the site and the ingress/egress on right-of-way. Ms. Caruso said the Commission can provide staff direction to improve the COAs. Comm. Simons also asked about COA 6.A. and whether the language for this could be less specific about uses, such as "...property line to enable for City use". Ms. McLeod said that the Commission can provide any direction they would like. COA 6.A. was worded the way it is as originally there was an easement, and later, a quitclaim deed was filed to give it up. Comm. Simons also requested that COA 10.J. include the wording similar to "replacement trees be large species trees appropriate for the site." He commented to staff that the student capacity limit should possibly be flexible between the current enrollment up to what it was when it was a public school, which was about 400 students. Ms. McLeod said the limitation would be based on occupancy limits of the building as when the site was a public school it also included the park space. Comm. Simons asked about the commercial usages, specifically the commercial catering. Ms. McLeod said that the catering issue did not come up as a use in discussion with the applicant. It would require a business license for this use. A neighbor did bring up this issue and without a license it is not allowable. Comm. Simons asked if the COA regarding uses was not modified, that this commercial catering would be restricted under this Use Permit. Ms. McLeod said it would currently not be an allowable use.

Chair Hungerford asked a question about the calculation for parking. Parking requirements appeared to be determined from two different uses. The first is the school which is daytime use and the second is for a place of assembly, calculated for evenings and weekends. Ms. McLeod said this is correct and explained the process for determining the parking ratio. Chair Hungerford, referencing page 10 of the report, commented that there appeared to be a time on weekends in the summertime where parking would conflict between summer school letting out and the Sabbath beginning. Ms. McLeod said it looks like there might be overlap, but that evening Sabbath is actually at sunset so the Sabbath would begin at a later hour.

Rabbi Avi Schochet, the applicant, and head of the SPHDS provided a recap of some of the items mentioned with a few corrections. The peak enrollment number was 380 and has since dropped accordingly. The capacity of the old public school in the last four years went from 411 to 280, which is when the school district closed the school indicating that a school of 280 was not viable. The Jewish Day School was established 33 years ago and was the first and currently is the only school of this type that exists between Los Gatos and Palo Alto. The school day is divided into two sections, a portion for general studies and a portion for Hebrew and Judaic studies. The school is recognized as one of the premier Jewish Day Schools in the Country.

The purpose of pursuing the renovation is not to expand the school, but to better the facilities that we do have. We would like to attract more students to the school, but we are not increasing classroom space. Based on the size and

number of the classrooms (20) and the number of students per classroom (30) the total capacity of students that could be allowed would be 600. We have no air conditioning and the heating is about 50 years old. He referred to page 10 and 11 of the staff report. He addressed and described the ancillary uses: the youth group of about 20 supervised youth that use the site on Wednesday nights and has been in operation for about 20 years; a group of 150-200 scouts on Sunday afternoons from about 1 to 6 p.m. using the outside and one classroom; the day camp of about 150 children that operates from mid-June to late August and has been in operation for about 30 years. He commented that there is no clash with the Friday use between the day camp and the Sabbath as camp gets out a little early on Fridays and the Sabbath begins at sunset. As a correction to the report, the Sabbath services do start at 9 a.m. on Saturday morning, but do not conclude until it is dark.

The ancillary use of the synagogue or chapel may be the biggest concern. In this case the school came first and the need for a place of worship followed. In Sunnyvale there are 45 houses of worship and not one of them is Jewish. The parents of the school needed a place to worship. The parents started the services and they operate independently of the school for tax purposes, liability purposes and charitable donations purposes. It does have a Rabbi that is one of the teachers at the school. He referenced an article in Attachment J that indicated that 500 people attended services in high holidays. He said that he does not agree with this number and that it could only be that many if they totaled the number of people at three services. He said the synagogue will provide a place to worship for students and parents and that they would no longer have to use the multi-purpose room (MPR) as the chapel, lunch room, gym and auditorium. He said that no one is ever turned away that wants to come and worship, so there can be no commitments on the numbers there.

The construction of a house of worship will only enhance the value of the houses in the area in large part because worshippers at this synagogue will want to live within walking distance. One of the constrictions in the Orthodox form of Judaism is that it requires non-driving on the Sabbath. This is an Orthodox Synagogue and most of the worshippers will be walking. The Synagogue will not be a traffic problem on Saturdays. Some worshippers do park their cars on Friday and leave them in the parking lot until Saturday. In regards to the teens, they only use the school as previously indicated. The school has been contacted 3 times in 5 years by neighbors with complaints. He appreciates the neighbors who have complimented the school for trying to keep the streets clear of parked cars. At one point there was a complaint of buses with the day camp and this has been addressed. He said the catering company is an issue. The school has contracted with an individual for the lunch program and he uses the school kitchen to make lunch for the kids. He does some catering on the side. We are asking him to change his address and not list the school as his address. There have been public meetings at the school on issues that affect the Jewish public. He said there was a 100 kilometer bike ride that did not go quite as planned and

resulted in bike riders parking on the streets. They did have the necessary permits, but at the same time apologize to the neighbors for the parking issue. He made reference to a letter from the City Parks and Recreation department from 2001, stating that there is no longer a joint agreement, yet the school still makes the parking lot available to the public. He also made reference to a 1999 City Crime Prevention Unit recommendation that the school implement a 6 ft. high security fence around the entire school. They did put up a fence, but only in the back because for Jews, fences and walls bring back very bitter memories. We regard ourselves very much a part of this neighborhood. We see the renovation of the school as a sprucing up of the Astoria Drive. The parking lot is a major neighborhood asset. The port-a-potty is there at the request of the City in front of the school. We want to be good neighbors and ask the Planning Commission to approve this project and ask the neighbors for their support.

Ms. McLeod said to please note two corrections on the table on page 10. The first is to revise Saturday Sabbath services to be from 9 a.m. to sunset. The second is to remove the "(September or October)" reference to the major religious holidays.

Bill Bondy of Starkweather Bondy Architecture, architect for the project, commented about the design considerations and renovations and said he is available to answer any questions.

Chair Hungerford opened the public hearing.

Sam Cramer spoke in support of the project. He has children that attend the school and said that his family bought their home in Sunnyvale because of the school. He likes that Sunnyvale has a variety of types of people and that this school is part of that variety.

Dirk Kuizenga, a neighbor across the street from the school, spoke in support of the project. He said this is a repeat of the same issues from 1996. He supported the project then and is in support of it now. He said when he bought his house he knew there would be some traffic due to the school. He would like to see the landscaping improved and also would like no fences.

The following five people that spoke had concerns about the project and presented a slide presentation representing their concerns.

Ashok Saraf, a neighbor, said he is concerned about the long-term effects on the neighborhood if there is continued expansion and intensification of the use of the site. He is not opposed to the use of the school as a religious site or the use as a day school or small religious services. He said the traffic during school hours is expected, but that there are traffic and parking issues for other events. He said there are three areas of concern not adequately addressed. They are: the legal, pre-existing, non-conforming use of the religious activities taking place

on the site; according to the Zoning Code the expansion of space at the site requires non-conforming uses to end; and the overall scale of the expansion poses a long-term risk to the neighborhood. The risk needs to be mitigated through additional COAs.

Queene Mavor, a neighbor, said she hopes that addressing both sides of the concerns that the neighborhood can get to a point that we won't be impacted by long-term development. Her concerns are with the pre-existing, legal non-conforming uses. She commented on some of the history of the site and listed key references that she feels indicate a conflict and problem with the synagogue being grandfathered in.

Scott Yeaman, a neighbor, said the neighborhood is happy and in favor of the new project, but is concerned that ordinances are being ignored. The property uses have changed over the years. He referenced an ordinance regarding continuance of a non-conforming use that the use can continue as long as no enlargement occurs. This project is an enlargement. He also referenced a quote from Planning Commission minutes of 4/23/01 that the intent of the non-conforming use ordinance is for the non-conforming use to eventually discontinue. We know that there is change going on and all we are asking is that parking be a major consideration in this.

Kasey Walden, a neighbor, said her main concern is with the expansion of use. She referenced a Planning Commission report and minutes of the report from 1996 that indicated that the Use Permit, at that time, was for the support of existing activities of the private school and not for a free-standing religious institution. The Use Permit from 1996 and the Use Permit proposed here show that the school uses have expanded. The neighbors are concerned about the continual expansion and uses and question whether these are legal.

Gary Walden, a neighbor, said he is okay with the school portion of the project. The concern is with the potential for future expansion and the intensification for the use as a community center. Referring to a 2001 article from Jewish News Weekly, he said it seems that the ultimate goal is to make this a regional Jewish center which does not seem to be consistent with the school. At a minimum, it seems that an increase in parking spaces should be considered and possibly limitations on the amount of usage so it does not impact the neighborhood.

Comm. Moylan asked Mr. Walden if he was against the Synagogue being built and also the existing facility being used as a synagogue. Mr. Walden said that what they fear is that the synagogue use is beyond just the use of the school. Comm. Moylan asked if a cap on the number of users were placed on the site if it would address his concerns. He said that would help, or adding additional parking spaces would also help.

Comm. Simons asked if the real issue is the traffic and parking, or is it the number of people. Mr. Walden said the issue is the traffic and the cars.

M. L. Chan said he has no objection with the Jewish culture, school or the children being in the neighborhood, in fact he enjoys the kids and has learned from them. His concern is that he feels cheated with the grandfathering of the uses. He feels the Planning Commission can help protect the neighborhood as he feels it is being encroached upon with activities beginning early in the day and into the evening. He would like to see no grandfathering of uses.

Peter Lee, a neighbor, believes the school is good for neighborhood, but has concerns about the expansion, grandfathering of uses, noise and traffic. He asked the Planning Commission to look after the neighbor's interests too.

Comm. Simons said he understands his concerns about the current uses being grandfathered in and asked Mr. Lee what he would like to see happen. Would he like to see limits on usage through a Use Permit or additions, or would he like to see no Use Permit? Mr. Lee said he would like to see a compromise. They do not feel like the school is a threat, he is only concerned about the expansion. Mr. Lee felt putting limits would be hard to enforce. Comm. Simons said the number limits are actually pretty easy to enforce and said he would defer to staff to speak about how enforceable use limits are. Mr. Lee said he felt like the park impact needs to be considered into this issue even though it is not a part of the site.

Bosco Wong, a neighbor, said he has no problem with school. He has seen the gradual growth and increase in noise, parking, and traffic. He does not oppose the remodeling only the expansion.

Helen Wong, a neighbor, said she is concerned about the increase in traffic.

Darren Lee, a neighbor, said he respects the school in the neighborhood. He is concerned about noise that sometimes goes on very late. He also is concerned about the inadequate landscaping and parking problems. He feels if the Synagogue is allowed that this will create further parking problems in the neighborhood.

Comm. Fussell asked Mr. Lee for clarification about the late in evening noise. Mr. Lee said he has had to call the police numerous times and that much of the noise comes from the gym.

Jay Lee, a neighbor, expressed concern that there were trees planted nine years ago, but they were not watered. He asked that the school water the trees.

Peiling Lee, a neighbor, said she likes her neighborhood and does not want to see it deteriorate.

Deidre Lee, a neighbor, said she has seen an increase in the noise levels at the school and it disrupts her studying and sleep time. She feels the Synagogue will bring more noise to neighborhood.

Irene Francisconi, a neighbor, expressed her concerns about noise after 10 p.m. and that the parking from the Synagogue is bad on the weekends. She would like to see people from the Synagogue use the parking lot rather than on-street parking.

Larry Conger, a neighbor, said over the years he has seen a progression of traffic, noise and parking problems even in front of his own house. He said the school is made up of a wonderful group of people and he is glad they are there, but these concerns need to be watched.

Janet Feemster, a neighbor, commented she has watched the school change and grow over the past 25 years. She has no objection to school, but is concerned about the noise and increase of use and the need for the school to be more cognizant to the neighborhood, stating she had called the school about water leakage that took them two years to fix. Not related to this project, she mentioned concerns about the port-a-potty and lack of drinking fountains in the park.

Suneel Gupta, a neighbor, spoke in support of the upgrade of the facility, but not the expansion of the facility due to noise, and parking concerns.

Shirley Chan, a neighbor, has seen the changes over the years. The problems she has seen have been with parking. She is concerned about what impacts the remodel will have on the neighborhood.

Pushpa Saraf, a neighbor, said she is concerned about the noise and parking if this project is approved.

Rick Gross, a neighbor, said this is a great, high-end neighborhood. He is concerned that this school project will bring more traffic, parking problems and security problems. This project does not benefit the local neighborhood as they can not use the playground or the bathrooms.

Alan Au, a neighbor, said that he is concerned about parking. He suggested that possibly the City should allow restricted residential parking.

Leo Zee, a neighbor, said he is concerned about the legality of grandfathering in the expanded use. He said the new expansion is really for a community center and has nothing to do with original K-8 school use. If there are going to multiple uses, he feels a new Use Permit would be in order.

Vadim Kotov, a neighbor, has noticed changes in the last seven years. He said the school is not a problem, but everything else will cause overflow to the neighborhood.

Doug McCutcheon, a Sunnyvale resident, said that places of worship have a higher parking requirement than schools and this is sort of shoe-horning a use into a place with a lesser parking requirement.

Christine McCutcheon, a Sunnyvale resident, commented that other churches in the City have huge parking lots with multiple entrances and exits.

Katsue Conger, a neighbor, commented that they paid a lot of money to live in a quiet residential area. She said that there is now a lot of traffic. She said the Jewish school is not bad, but the residential area is no longer quiet due to traffic and noise.

Philip Madera, a neighbor, said he has noticed an increase in noise and traffic in the past few years. They can not use the playground as there are no bathroom facilities. The school is not a problem and they enjoy the school. His concern is the increase in traffic and parking. He feels approval of this project would be the first step towards something bigger.

Itamar Haritan spoke in support of the Day School. He said there are three important things that may have been overlooked, specifically about the values of the Jewish youth group to the community. He spoke of the values of the Day School to his life. He said there are no secret motives to expand to a huge number, but that this project is important to improve the quality of this important facility.

Randy Ehlers, a neighbor, spoke in support of the project. He said the school has been a good neighbor all these years. He said he has not had a problem with noise and the traffic is manageable. He feels the parking problems are from the nearby convalescent homes. He said a solution would be to set the limits. He would like to preserve the character of the neighborhood and see the landscaping improved.

Morey Schapira, a resident of Sunnyvale, spoke in support of the project. He was involved in the Use Permit application in 1996 as he was the president of the Hebrew Day School at that time. The Planning Commission and the City Council both approved it then. He feels the City Parks and Recreation Department should help with the problems in the park. The traffic issues are legitimate, but not all of the problems mentioned are a result of the school.

Comm. Simons asked Mr. Schapira what use was actually being proposed back in 1996. Was it school first and then the Synagogue? Mr. Shapera said the

facility was inappropriate for prayer. He said other religious schools have adequate places to pray. The key focus was not to build a huge synagogue, but to have a place to pray. The need for the Synagogue has continued to evolve.

Daniel Appleman, spoke in support of the project. He is an adviser of the youth group which is a possible source of the noise issues. He spoke of the value of the youth group. It is hard to find a good place to take teenagers in the evening. The school has never charged the group for usage of the room. He said when he comes to the school, the only time he sees parking trouble is when it is from other non-school uses such as the Park.

Leo Drubach, spoke in support of the project. He said he was shocked and saddened by what the neighbors have said. He said you can not blame everything on the school. He sees all kinds of events at the Park and the convalescent home that lend to these problems and it is not all the school. He was sorry about the hostility toward the school and the property values are not being affected by this school in a negative way.

Alene Peaceman, has children that attend the school and spoke in support of the project. She said she does not expect to see school enrollment to go beyond 350. She said there will be some traffic anytime you are near a school. She would like to see the air conditioning added.

Martin Stone, spoke in support of the project and pointed out some of the economic benefits of the school to the community. Several of the local stores have added kosher sections that have caused more people to shop in Sunnyvale. He has been involved with development of synagogues and his experience has been that when an Orthodox Synagogue is added to the community, property values rise.

David Aziz, spoke in support of the project. They bought a home four blocks away, specifically to be near this school and Synagogue. This is a very unique combination for their family and is really important to them.

Jason Feinsmith, a Sunnyvale resident, spoke in support of the project. He has not had any parking problems especially if you park in the lot. It is important to have a school where the facilities are comparable to other schools. He asked for a show of hands of how many people came to support the school. There were many hands raised.

Lorri Geiger, spoke in support of the project. She said the school needs to be remodeled. She said that the "expansion" is not expansion, but it is important that there be a place to pray. She commented that there is a big Jewish Community Center opening in October and this Sunnyvale location will not become a huge regional center.

Rirke Scheihlmon, a parent of students at the school, spoke in support of the project stating that they really need these new facilities for the kids now. She said the library does not have enough space and the air conditioning is really needed.

Rachel Braun, a former student and a teacher in a Jewish school, spoke in support of the project. She emphasized that prayer is an important part of the curriculum and that the parents and students need a proper place to pray.

Alex Axelrod, spoke in support of the project. He is at the school everyday and he is grateful that he has a place to take his child to pray and learn. He said he sees the same kinds of traffic situations at other schools.

Edward Davidovits, spoke in support of the project. He addressed the traffic noise issue and parking, commenting that the parking is not as bad as was shown in the photos. He commented that the parking lot alternates between school and the Synagogue and they also allow park users to use it for free. He said this is not an expansion, but a re-creation of the rooms that exist.

David LeVine, spoke in support of the project. He is a past president of the Board at the school and commented that prayer has been a part of the school since day one. In 1996 the project was approved, but did not happen because the renovation of the rest of the school was equally important and needed to be done right. He commented about traffic, parking and the need for the library.

Comm. Moylan and Chair Hungerford asked the speakers to please expedite their comments and try to discuss new items.

Ytai Cezana, spoke in support of the project and is a member of the Synagogue. His practice has been to drive to the school on Friday afternoon, park and walk back and forth between Sabbath services and then drive home Saturday evening. He said that traffic and parking are not going to increase for their facility over the weekends.

Avi Kopelman, lives near the school and bought his home close by to be within walking distance of the school. He is the past president of the school and the Chair of the Construction Committee. He said it is a shame that the architectural details of the project have not been discussed this evening. He said this project is about reasonable function that other schools have and not about expansion. He said that staff did a good job addressing the parking issues. He said there is no meaningful traffic generated by the Synagogue on the weekends.

Cylus Samson, spoke in support of the project. He commented that there were a lot of family members speaking and confirmed that he has noticed the traffic has increased, but you can not just blame the school for that.

Elie Avitan, spoke in support of the project and said he attended the day school for a few years. He commented that his parents sent him to a different school that had lots of good facilities. This school needs to be renovated so it can compete with the public schools. This project is for the community that is here now, not for growth. This is a long overdue renovation.

Gilad Kopelman, spoke in support of the project. He goes to the school in the mornings and the evenings. He said when he has arrived in the mornings at about 6:30 a.m. that he sees cars lined up. These have nothing to do with the school, so all of the parking issues can not be blamed on the school.

Chair Hungerford thanked everyone for attending and expressing their thoughts on both sides of the issue.

Rabbi Schochet, the applicant, returned to address some of the issues. He thanked staff for a good job and for understanding the uses of the facility. He commented to the neighbors that the implications that they are hiding things or trying to take short-cuts are not true. He assured the neighbors and City that their intent is not to hide anything. He commented that the increase in traffic is not due to the school and that traffic is increasing everywhere and is due to other items. There was a traffic survey done and the numbers speak to the issue. Regarding parking, he said that there is a lot of on-street parking for the convalescent home. Staff is asking the school to put in 21 additional parking spaces. On the weekends the parking lot is used by many of the park users and only by goodwill on the school's part. Regarding the fences, he said it is seen by the neighbors as a restriction from what it was before. In 1999, a broad security review recommended a fence around the entire school. They chose only to put the fence in the back since they were asked to. Regarding the expansion, he said there is a large Jewish facility being built in Palo Alto and in San Jose. So this is not to be a regional center. He said they have already accepted the staff recommendation to limit the enrollment to 354 students. This is an important Jewish facility built around a school. We have been good neighbors and want to continue to be good neighbors.

Chair Hungerford closed the public hearing.

Comm. Simons moved for **Alternative 2., to adopt the Mitigated Negative Declaration and approve the Use Permit with modified conditions: COA 6.A. to be modified to read, "Maintain the existing ingress/egress right-of-way along the western property line for the City."; COA 10.J. regarding the replacement trees, addition of language to read, "large species trees as appropriate for the site."** Comm. Simons also requested the addition of a COA 13.E., which would be the addition of a parking requirement that would have to be revisited if there were a change of owner, but after discussion with staff, he withdrew this addition. Comm. Simons said he would be open for suggestions for COA 3.A. that the maximum allowable number of students be fixed at 354, but

if no suggestion, he would keep the COA as it reads. **Comm. Babcock seconded.** **Comm. Babcock added a COA that the applicant pay for striping and center bumps on Astoria if deemed appropriate by Public Works.** **Comm. Simons accepted the addition.** **Secondly, she added COA 3.C. to cap attendance to the numbers listed on the summary table on pages 9 and 10 of the report for all hours and all uses.** **Comm. Simons accepted the addition.** **Third, Comm. Babcock said to cap the total attendance to the entire site at any given time to 400 (this was revised after discussion to 200 outside of school hours).** Comm. Simons asked for clarification. After discussion with Comm. Babcock and staff, staff said that it would be easier to cap the entire site rather than try and monitor individual room usage. Staff asked Comm. Babcock if the capping use in the table included the addendum that was offered in the report. Comm. Babcock said yes. Comm. Babcock added that **Comm. Moylan pointed out that by capping the attendance, that anything outside of school hours can not exceed 200.** **Comm. Simons accepted the addition.** Joan Borger, Senior Assistant City Attorney asked for clarification about the numbers restrictions. Comm. Moylan confirmed that the restrictions are to 354 students, which is how COA 3.A. reads in the staff report, and as shown in the table, there would be a cap of 200 people on the site outside of school hours.

Comm. Simons commented that he was a little disappointed that there was not much conversation about the architecture, but he is pleased that it is consistent with the 50s California architecture design for elementary schools. He said the required landscaping and watering are a positive. He said the enforcement of the use is a little more restricted than he was expecting it to be. He said the negatives include the traffic and parking issues. He commented to the public that the traffic and parking issues are a conflict of multiple uses, including the neighboring park and traffic flow due to traffic lights. All Sunnyvale parks are being impacted by use which is a sports issue. There are issues that are impacting neighbors that are not related to the school. Comm. Simons recommended to staff two study items regarding the concept of neighborhood parking permit programs and also a Capital Project study for bathroom facilities at San Antonio Park.

Comm. Babcock commented that this project adds to the school, but will not impact the neighborhood more than it is impacted now. She feels that the convalescent home staff park on the street. She said that this project will give 21 extra parking spaces on property, that she hopes this will help the neighborhood and would like to encourage the school to encourage parents to park in the parking lot and to consider carpooling.

Comm. Moylan said that to grant a Use Permit it must meet one of two criteria. It either advances the General plan or it does not, but it does not hurt anybody. He said this project meets the General Plan criteria and the Use Permit should have been granted about three hours earlier. The only issue is what to change in

the COAs. He agrees that there are parking problems in this neighborhood, but he believes they are due to the convalescent hospital.

Ms. McLeod asked the Commission for a recap of the amendments. The recap included modification to the language on COA 6.A. to read, **“Maintain the existing ingress/egress right-of-way along the western property line for the City.”** Ms. McLeod pointed out that this was to enable City access and not to limit it as well as including non-City emergency vehicles. Comm. Simons asked the language include **“in addition to”**; addition to COA 10.J. to include the **“large species trees language”**; that the applicant pays for striping or bumps on the street if determined necessary by Public Works; addition of COA 3.C. to **cap the uses to those listed in the table in the staff report on pages 9 and 10, as modified by staff and to cap the uses outside of school hours to a maximum of 200 people and limit the use to no later than 10 p.m.**

Comm. Simons made a motion on Item 2004-0734 for Alternative 2., to adopt the Mitigated Negative Declaration and approve the Use Permit with modified Conditions of Approval (COA): COA 6.A. to be modified to read, **“Maintain the existing ingress/egress right-of-way along the western property line to enable City vehicles and other emergency vehicles access to the park”**; COA 10.J. to be modified to read, **“For every tree that is removed, a large species replacement tree shall be planted on the site based on the approved landscape plan”**; addition of COA 1.Q. that the applicant pay for striping or centerline traffic management on Astoria if deemed appropriate by Public Works; addition of COA 3.C. to cap the allowable uses to those uses, hours and number of attendees listed in the amended staff report in the table on pages 9 and 10; and addition of COA 3.D. to limit uses outside of school hours to a maximum of 200 people and limit the use time to no later than 10 p.m. Comm. Babcock seconded.

Motion carried unanimously, 7-0.

This item is appealable to City Council no later than July 26, 2005.